

### Amendments To The Claims

1. (previously cancelled)

2. (previously cancelled)

3. (currently amended) The fence panel as recited in claim 20, further comprising a pair of end posts attached to opposing ends of the first and second rails ~~longitudinally outwardly of the end pickets~~ and extending sufficiently in a first direction for seating a portion thereof in the terrain surface, whereby a fence panel stands in an installed position relative to the terrain surface.

4. (previously amended) The fence panel as recited in claim 3, further comprising:  
angle members, each having a first and a second leg, the first leg of each angle member attached to a distal end of one of the first and second rails and the second leg defining a pair of holes;  
screws extending through the holes to secure the rails to a respective one of the fence posts.

5. (presently amended) The fence panel as recited in claim 20, wherein the fence panel is selectively racked during installation between about 0 and 20 degrees relative to the angle at which the first and second rails are disposed when the first and second rails and the ~~end~~ first and ~~interior~~ second pickets are initially attached together.

6. (previously amended) The fence panel as recited in claim 20, wherein the angle at which the first and second rails are disposed is between about 0 degrees and 60 degrees.

- 2 -

A CMD 592643 v1  
2170933-000001 10/28/05

7. (presently amended) The fence panel as recited in claim 6, wherein the fence panel is selectively racked during installation between about 0 and 20 degrees relative to the angle at which the first and second rails are disposed when the first and second rails and the ~~end~~ first and ~~interior~~ second pickets are initially attached together.

8. (currently amended) The fence panel as recited in claim 20, wherein the angle at which the first and second rails are disposed is selected from the group comprising the angles of about 0 degrees, about 20 degrees, about 40 degrees, and about 60 degrees.

9. (presently amended) The fence panel as recited in claim 8, wherein the fence panel is selectively racked during installation between about 0 and 20 degrees relative to the angle at which the first and second rails are disposed when the first and second rails and the ~~end~~ first and ~~interior~~ second pickets are initially attached together.

10. (previously amended) The fence panel as recited in claim 20, wherein the rails are four-wall tubular members.

11. (previously amended) The fence panel as recited in claim 20, further comprising angle members, each having a first and a second leg, the first leg of each angle member attached to a distal end of one of the first and second rails and the second leg defining a pair of holes for receiving screws for attaching to a fence post.

- 3 -

A CMD 592643 v1  
2170933-000001 10/28/05

12. (currently amended) A fence panel readily adjustable to track substantially a slope of a terrain during installation thereof, comprising:

a pair of elongate rails disposed in parallel spaced-apart relation and at an angle relative to horizontal to define a longitudinal length of a fence panel, the rails each defining on a side opposing first and second side edges ~~vertically spaced apart relative to the terrain;~~

a plurality of ~~inner~~ first pickets and a pair of ~~outer~~ second pickets disposed on the side of the rails perpendicular to horizontal, the first pickets attached to the first and the second rails by fasteners only between such that the inner first pickets attach to and the first side edge of the respective rail, and and the outer second pickets attach attached to the rails by fasteners only between the second pickets and to the opposing second side edge of the respective rail and the outer pickets,

~~whereby the rails attached to the inner opposing attachment of the first and second pickets at an edge opposing the first side edge or the second side edge at which to the rails attach to the outer pickets, restrict~~ restricts the rails from rolling way away from the inner first and outer second pickets while the fence panel during installation in a fence over a terrain adjusts to a slope of a portion of the terrain by moving opposing ends of the fence panel in opposing directions transverse to the longitudinal axis of the rails while the pickets remain substantially perpendicular to horizontal.

13. (original) The fence panel as recited in claim 12, wherein the fasteners comprise flexible mild steel welds.

14. (original) The fence panel as recited in claim 13, wherein the angle at which the rails are disposed is between about 0 degrees and 60 degrees.

15. (original) The fence panel as recited in claim 14, wherein the fence panel is selectively racked during installation between about 0 and 20 degrees relative to the angle at which the rails are disposed when the rails and pickets are initially attached together.

16. (original) The fence panel as recited in claim 15, further comprising a pair of end posts attached to opposing ends of the rails, whereby adjacent fence panels connect to the end posts to define a longitudinal section of a fence.

17. (original) The fence panel as recited in claim 16, further comprising;  
angle members, each having a first and a second leg, the first leg of each member attached to a distal end of one of the rails and the second leg defining a pair of holes;  
screws extending through the holes to secure the rails to a respective one of the fence posts.

18. (original) The fence panel as recited in claim 16, wherein the rails are four-wall tubular members.

19. (previously amended) A method of making a fence section for tracking a sloped grade during installation of a fence over a terrain, comprising the steps of:

(a) disposing a pair of rails parallel and spaced-apart at an angle to a horizontal plane to define a longitudinal length of a fence panel, the rails defining opposing first and second side edges relative to the horizontal plane a-terrain;

(b) attaching a plurality of ~~inner~~ first pickets to a side of the rails and disposed substantially perpendicular to the horizontal plane with fasteners only between the ~~inner~~ first pickets and the first side edge of the rails; and

(c) attaching ~~a pair of opposing outer~~ at least two second pickets to a the side of the rails at ~~opposing ends of the rails~~ and disposed substantially perpendicular to the horizontal plane by fasteners only between the ~~outer~~ second pickets and the opposing second side edge of the rails,

whereby the attachment of the ~~inner~~ first pickets to the rails opposing the attachment of the ~~outer~~ second pickets to the rails, restrict the rails from rolling away from the ~~inner and outer~~ first and second pickets while racking the fence section by moving opposing ends of the fence section in opposing directions transverse to the longitudinal axis of the rails to conform a slope of the rails substantially to a slope of a portion of the terrain by changing the angle between the ~~inner and outer~~ first and second pickets relative to ~~and~~ the rails while the ~~inner and outer~~ first and second pickets remain substantially perpendicular to the horizontal plane.

20. (presently amended) A fence panel for tracking a sloped grade of a portion of a terrain surface for attaching to adjacent ones of the fence panel to define an elongate length of fencing along the terrain surface, comprising:

a first rail and a second rail disposed in parallel, spaced-apart relation to each other and defining a longitudinal length of the fence panel, each of said first rail and second rail defining on a side a respective opposing first longitudinal edge and a an opposing second longitudinal edge spaced apart relative to the first longitudinal edge a terrain surface, and said first and second rails disposed at an angle relative to horizontal;

a pair of spaced-apart end first pickets disposed substantially perpendicular to horizontal on a first the side of the first rail and the second rail at opposing longitudinal end portions of the first rail and the second rail and attached thereto by a weld only between each of the end first pickets and the respective first longitudinal edge of the first rail and the second rail;

a plurality of interior second pickets disposed substantially perpendicular to horizontal on a first the side of the first rail and the second rail, said interior pickets spaced apart between the end pickets, said interior pickets and attached thereto the first rail and the second rail by a weld only between each of the interior second pickets and the respective second longitudinal edge of the first rail and the second rail,

whereby the end first pickets and the interior second pickets connect attached on opposing longitudinal edges of the first rail and the second rail restrict the first and second rails from rolling away from the first and second pickets while so that the fence panel, being racked by moving opposing ends of the panel in opposing vertical directions relative to the terrain surface, conforms a slope of the first rail and the second rail substantially to a slope of the portion of the terrain surface

by changing the angle between the ~~end-and-inner~~ first and second pickets relative to ~~and~~ the first and second rails while the ~~end-and-inner~~ first and second pickets remain substantially perpendicular to horizontal ~~without the first and second rails rolling away from the inner and outer pickets.~~

- 8 -

A CMD 592643 v1  
2170933-000001 10/28/05